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SUPREME COURT, U.S.

No. 06-1660

IN THE

Supreme Court of the United States

ARIEL PEREZ, SR., Personal Representative of the Estate of ARIEL E. PEREZ, JR., Deceased,

Petitioner,

v.

OAKLAND COUNTY, MICHIGAN, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF IN OPPOSITION

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COUNTER-STATEMENT OF QUESTIONS PRESENTED

I. Whether the Circuit Court properly granted Summary Judgment in favor of Respondent Rice based on qualified immunity because the right to have a screening for suicidal tendencies performed by a medical professional was not clearly established in November 2002?

II. Whether the Circuit Court properly determined that the decision to transfer Perez to a single cell involved a screening decision with regard to Perez's suicidal tendencies?

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FACTUAL BACKGROUND

This case arises as a result of Ariel Perez, Jr.'s (Perez) suicide while an inmate at the Oakland County Jail on November 22, 2002. Perez's estate (Petitioner) filed the instant lawsuit alleging that Perez's Eighth Amendment rights were violated by the failure to provide proper medical care to him during his incarceration at the Oakland County Jail (OCJ). This appeal only addresses Respondent Rice.

I. Overview.

Based on the records from the OCJ, Perez was booked into the jail on October 24, 2002, for a probation violation and placed in Holding Cell R4. At approximately 5:00 a.m. on October 25, 2002, Perez informed a guard that he was hearing voices and requested to see a counselor but denied being suicidal. At approximately 6:15 a.m., Perez tied his pants around the bars of his holding cell. That morning Perez was seen by Respondent Roberta Rice and Dr. Hemachandra, who continued the suicide watch. Perez was again seen by Respondent Rice on October 28, 2002, when she discontinued the suicide watch and cleared Perez for general population. Perez was then housed in a 10 man cell, C-1C, on October 30, 2002. After admitting to stealing items from his cellmates, Perez was placed in a single person cell on November 18, 2002, where he remained until committing suicide on November 22, 2002.

Respondent Rice's Counseling Case Notes for Perez's last incarceration were attached to Defendants Motion for Summary Judgment in the District Court. The Counseling Case Note from October 25, 2002 indicates that Perez stated he attempted to hang himself so that he could see a counselor

sooner and continue the medication he was taking outside of jail. Perez denied any suicidal ideation or hallucinations but was continued on the suicide watch due to his attempt to hang himself in the holding tanks. Dr. Hemachandra completed an Evaluation Supplement regarding the October 25, 2002 meeting with Perez. Dr. Hemachandra indicated that "[w]hen questioned he stated he really did not want to hurt self but did it to get attention to get meds fast." Dr. Hemachandra prescribed Lithium carbonate and Zyprexa and recommended that Perez be placed on active suicide watch.

Respondent Rice next saw Perez on October 28, 2002 to review the suicide watch he had been placed on three days earlier. Perez had returned from sentencing and stated "I just want to do my time and get on with my life." Perez indicated the medication he was receiving made him feel better and denied any suicidal ideation. Perez reiterated that he was not trying to hurt himself when he tied something around his neck and that he just wanted to be moved out of the holding tank and given his medication. The record indicates that Perez was cooperative and his thought process was within normal limits. He accepted the sentence he was given and appeared stable. The suicide watch and special housing was discontinued by Respondent Rice and Perez was cleared to be placed in the general population of the OCJ.

Respondent Rice next met with Perez on November 4, 2002. Respondent Rice received a slip from the jail clinic indicating that Perez was refusing his medication. The Counseling Case Note reflects that Perez stated that he did not want to take psychiatric medication anymore because he felt he did not need to, that he became a Christian prior to his current incarceration and now has a purpose in his life, and that he wants to go to the jail annex so he can work on

his GED. In addition, the record states that Perez denied any problems with appetite or sleep, denied any problems in his current cell, denied any suicidal ideation, that he did not appear suicidal, that he exhibited no evidence of depression or psychosis, that he appeared stable and that no watch was needed.

Perez was seen by Dr. Hemachandra on November 8, 2002 for an evaluation. Dr. Hemachandra read his writing from the Initial Evaluation into the record during his deposition.

> Presenting Problem: Mr. Perez was seen on 7-05-01 when a PE was completed. At that time he complained of quote/unquote voices. Now he states he never heard voices and wanted some medication to help depression and insomnia. After release from Oakland County Jail, had worked in a job. History of ADHD, had been on Ritalin. History of cannabis dependence, past history of suicidal attempts, had been in NOMC [North Oakland Medical Center] following domestic violence. Some paranoia and mood swings reported. Had been on Zyprexa and Lithium carbonate.
>
> Mental Status: Mr. Perez is a 19 year old white single male. Was seen and evaluated. Still has mood fluctuations and paranoia, no evidence of suicidal or homicidal ideations. Mood mild to moderate, mood depression, affect labile, oriented to time, place, person.

Problems Identified: Major mental disorder, yes. Substance abuse, yes.

Diagnostic Impression: Primary, schizoaffective disorder, DSM-4 295.70. Secondary, cannabis dependence, DSM4-305.30. Number three, learning disorder not otherwise specified. Number four, intermittent explosive disorder. Axis two, personality disorder antisocial type, DSM4-301.7. Axis three, deferred. Axis four, moderate. Current GAF score 45, highest 65. No evidence of suicidal or homicidal ideations.

Treatment Recommendation: Individual counseling substance abuse NA Lithium carbonate 300 milligrams, one a.m. and two HS, Zyprexa 15 milligram one HS. Aware of side effects. Medication review appointment scheduled for 11-29-02.

Dr. Hemachandra testified that at the time of his evaluation he was aware that Perez was not taking his psychiatric medication. The above evaluation is the last evaluation of Perez by Dr. Hemachandra. It must be noted that Dr. Hemachandra indicated in two places that he found **"no evidence of suicidal or homicidal ideations."** In addition, and contrary to Petitioner's repeated assertions, Dr. Hemachandra did not indicate that Perez needed to be kept under close supervision as of November 8, 2002.

Mr. Perez was again seen by Respondent Rice on November 18, 2002. Respondent Rice met with Perez because Deputy Jorgensen requested that Perez be cleared for single cell housing. The Counseling Case Note from November 18, 2002 indicates that Perez admitted to stealing

from other inmates in his cell. The Counseling Note indicates that Perez denied any suicidal ideation and did not appear suicidal. Respondent Rice indicated that Perez appeared appropriate for single cell housing for his safety, that he appeared stable, and that no watch was needed. Respondent Rice's last Counseling Case Note regarding Perez is dated November 19, 2002 and indicates that she reviewed Perez's case with Dr. Hemachandra.

II. Deposition Testimony.

Respondent Rice was hired by Oakland County as an inmate case worker in 1994. Respondent Rice graduated from Oakland University with a Bachelor of Arts in 1993. She worked as a volunteer counselor at Mt. Zion Temple in Clarkston for approximately two years prior to beginning her employment with Oakland County. After starting at Oakland County, Respondent Rice had an intensive six month on the job training period and has had continual training throughout the years. As of November 2002, Respondent Rice's training included the following courses: Suicide Assessment and Prevention; Understanding Suicide, Nonverbal and Circumstantial Clues; Handling the Mentally Ill on the Street or in Lockup; Suicide Awareness and Handling Aggressive Behavior; Non-violent Crisis Intervention; Dealing with the Frustrating Client; Psychiatric Emergencies; Understanding Depression, Anger and Aggressiveness; Suicide Assessment and Intervention Strategies; Recognition/De-Escalation of Violent Clients; Angry Adolescents; Personality Disorders in Social Work and Health Care; Understanding Anger; Understanding Anxiety; and Assess/Treatment of Obsessive-Compulsive & Body Dysmorphic Disorders. Respondent Rice's duties as an inmate case worker include crisis and suicide intervention,

mental illness assessments, group therapy, and counseling upon request. Respondent Rice performed numerous assessments of Perez throughout his incarcerations at OCJ. Respondent Rice visited Perez on October 28, 2002, to review the suicide watch. She met with Perez and discontinued the suicide watch because he did not appear suicidal. Respondent Rice based her decision on Perez's denial of being suicidal, his thought process being within normal limits, the lack of any observed psychotic behavior, his stable appearance, his being cooperative, and his orientation to the future. Mr. Perez also indicated that he was taking his medication at that time.

Respondent Rice next saw Perez on November 4, 2002, after learning that Perez was not taking his medication. After meeting with Perez, Respondent Rice did not put him on a suicide watch because he was stable and not suicidal with no evidence of depression or psychosis.

Respondent Rice last saw Perez on November 18, 2002, after being contacted by the classification unit to clear Perez for housing in a single person cell. Respondent Rice spoke with Deputy Jorgensen and was told that Perez was stealing from other inmates and the inmates were not happy about it. Respondent Rice met with Perez to determine if he was stable enough to be in a single cell. In making her determination regarding housing Perez in a single cell, Respondent Rice discussed Perez's attitude toward being housed in a single cell, his orientation to the future, the lack of signs of depression or psychosis, and if he appeared suicidal. Respondent Rice determined that Perez was not at risk for suicide but that he was at risk if he remained in his ten person cell due to his stealing from other inmates. Respondent Rice considered Perez's past history when assessing his risk of suicide on November 4, 2002. Respondent Rice testified that

she discussed Perez's placement in a single cell the next day with Dr. Hemachandra but did not contact Dr. Hemachandra prior to the placement.

The OCJ has policies in place for the assessment of an inmate's condition upon admission and regarding suicidal inmates. A memorandum regarding the policy and procedure for suicidal inmates was prepared to clarify housing and treatment recommendations for the counseling unit. The memorandum provides in part that "inmates indicating potentially suicidal behavior shall be housed in a multiple cell with the appropriate supervision recommended." Respondent Rice was questioned regarding the memorandum regarding suicidal inmates as to why she did not follow the policy by placing Perez in a multiple person cell. **Respondent Rice testified that she did not consider Perez to be potentially suicidal so the policy did not apply to Perez.**

Dr. Hemachandra testified that the fact that a person had attempted suicide in the past does not necessarily make them suicidal. When Dr. Hemachandra evaluated Perez on November 8, 2002, he was aware that Perez was not taking his medication. Dr. Hemachandra testified that on November 8, 2002, Perez was not suicidal. Perez did not display any danger to self or others, no helpless feelings, no hopeless feelings, he talked about the future, he was eating and sleeping all right, and there was no evidence of suicidal or homicidal thoughts.

III. Petitioner's Experts.

James Houston, Ph.D., was retained by Petitioner in this matter. He was retained to analyze whether or not the policies and procedures of the OCJ were followed by employees and agents of Oakland County. Dr. Houston agreed that the vast majority of county jails have individuals trained in suicide identification and prevention who are not psychiatrists that make determinations whether or not somebody is potentially suicidal on a daily basis. In addition, the decision to remove an inmate from a suicide watch is made by non-psychiatrists in the vast majority of cases in county correctional facilities. He further acknowledged that Perez received individual medical management due to his mental illness.

REASONS FOR DENYING THE PETITION

I. Respondent Rice Is Entitled To Qualified Immunity.

Petitioner correctly states that this case was resolved on the basis of qualified immunity. Petitioner is also correct that *Saucier v. Katz*, 533 U.S. 194, 150 L.Ed.2d 272, 121 S.Ct. 2151 (2001), sets forth the test for determining whether qualified immunity protects a governmental actor from liability. The first question is if a constitutional violation occurred and if that question is answered in the affirmative, the second question is whether the right at issue was clearly established. Respondent submits that the answer to both of these questions is "no." The Circuit Court majority found a question of fact with regard to the first question and held that the right at issue was not clearly established in November 2002. The Petition for Certiorari addresses only the second question, whether the right at issue was clearly established. Respondent will limit this Response to the issue raised in

the Petition and demonstrate why the Certiorari should not be granted in this case.

Petitioner's petition essentially is asking the Court to abrogate qualified immunity analysis set forth in *Saucier* and eliminate any analysis regarding whether the right at issue was clearly established. Petitioner nowhere identifies case law that would alert a jail employee in November 2002 that an assessment regarding an inmate's suicidal tendencies prior placing the inmate in a single celi had to be performed by a psychiatrist or psychologist. Similarly, Petitioner cannot refute the case law of the circuit where the events took place holding that there is no general right to be correctly screened for suicidal tendencies and there is no generalized right of a prisoner to be protected against committing suicide. *Danese v. Asman*, 875 F.2d 1239, 1244 (6th Cir. 1989) and *Rich v. City of Mayfield Heights*, 955 F.2d 1092, 1096-1097 (6th Cir. 1992); *see also*, *House v. County of Macomb*, 303 F.Supp.2d 850, (E.D. Mich. 2004)(quoting *Davis v. Fentress County Tennessee*, 6 Fed.Appx 243, 249 (6th Cir. 2001).

Petitioner believes that this case does not involve screening an inmate for suicidal tendencies because Perez was screened prior to November 18, 2002 and had been placed on suicide watch in the past. The error with Petitioner's belief is that there is no dispute that Perez was evaluated by Dr. Hemachandra on November 8, 2002, and found **not** to be suicidal. Thus, as of November 8, 2002, Perez was not considered to be an inmate with suicidal tendencies. The issue was raised again on November 18, 2002, when Respondent Rice was asked to clear Perez for single cell housing. Prior to clearing Perez for a single cell, Respondent Rice conducted a screening and determined that Perez was not suicidal. Petitioner takes issue with the conclusion of

that screening but the fact that the November 18, 2002, consultation by Rice was a screening for suicidal tendencies cannot be questioned. Based on the nature of the consultation and the holding in *Danese* that there is no general right to be correctly screened for suicidal tendencies, Respondent is entitled to qualified immunity in this case.

Despite the inability to set forth clearly established rights that would alert a reasonable official that placing an inmate in a single cell violated the inmate's constitutional rights, Petitioner claims that the lower courts "missed the point" on the clearly established right prong of the qualified immunity analysis. Petitioner infers that the determination that a question of fact regarding the existence of a constitutional violation should be sufficient and that it is "unbelievable" that the lower courts followed established case law and required Petitioner to satisfy the second step of the qualified immunity standard by demonstrating that the right at issue was clearly established.

Petitioner asserts the issue presented is an important societal issue because of the number of mentally ill inmates in the jail system. With regard to the importance of the decision, Petitioner contends that it is important for inmates and jail officials to know what rights are clearly established. The problem with this claim is that Petitioner is saying that the determination of what rights were clearly established in November 2002 is a matter of exceptional importance in August 2007. The only impact of reviewing the issue of qualified immunity will be on this particular case. Any conduct that occurred prior to the circuit court decision obviously cannot be altered after the fact. Any conduct after the issuance of the decision will be reviewed in light of the decision.

II. The Decision Below Does Not Conflict With Long Standing Well Established Decisions Of This Court.

Petitioner contends that the circuit court decision conflicts with three cases decided by this Court. The first case identified by Petitioner is *Anderson v. Creighton*, 483 U.S. 635, 107 S.Ct. 3034 (1987). Petitioner quotes language from *Anderson* regarding what constitutes a "clearly established" right. *Anderson* requires that "the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right." *Id.* at 640. To overcome a claim of qualified immunity, Petitioner has the burden of establishing that "in light of pre-existing law the unlawfulness must be apparent." *Id.*; *Gardenshire v. Schubert*, 205 F.2d 303, 311 (6th Cir. 2000). Petitioner argues *Anderson* was violated because Petitioner was required to satisfy a standard more stringent than *Anderson*.

Petitioner fails to set forth how the application of the facts of this case and the decision of Respondent Rice violate clearly established law. Instead, Petitioner states in conclusory fashion that it was "certainly" established in 2002 that disregarding the known suicidal history of Perez when placing him in a single cell constitutes a constitutional violation. First, Petitioner continues to ignore the fact that the decision made by Respondent Rice to clear Perez for a single cell was screening Perez to determine if he had suicidal tendencies at the time he was cleared for single cell housing. In the context of a jail suicide, although the Sixth Circuit has held that psychological needs resulting in suicidal tendencies are serious medical needs, it has also held that there is no general right to be correctly screened for suicidal tendencies and there is no generalized right of a prisoner to

be protected against committing suicide. *Danese v. Asman*, 875 F.2d 1239, 1244 (6th Cir. 1989) and *Rich v. City of Mayfield Heights*, 955 F.2d 1092, 1096-1097 (6th Cir. 1992). The circuit court majority correctly viewed Rice's placement of Perez in a single cell as an issue involving the screening or monitoring of an inmate. Case law established that no right to be correctly screened for suicidal tendencies or to be protected from committing suicide exists, therefore, the circuit court decision correctly applied *Anderson* to the facts of this case because no pre-existing law would have alerted Respondent Rice that her decision to screen Perez for single cell housing violated his constitutional rights.

The second case Petitioner claims conflicts with the circuit court decision is *Estelle v. Gamble*, 429 U.S. 97, 104; 97 S.Ct. 285; 50 L.Ed.2d 251 (1976). Petitioner's discussion of *Estelle* ignores the standards applicable to qualified immunity analysis. Petitioner relies on *Estelle* for the holding that jail officials cannot be deliberately indifferent to the serious medical needs of prisoners. Respondent does not contest that *Estelle* set forth this general legal right applicable to asserted Eighth Amendment violations, however, the proper inquiry for qualified immunity requires more than reliance on a general legal right. The circuit court majority acknowledged that the right not to have prison officials treat Perez's known medical need, including psychological needs, with indifference was clearly established. As pointed out by the circuit court:

> These established principles, however, were not enough, on their own, to alert a reasonable caseworker that Rice's conduct was deliberately indifferent under the circumstances. "[W]e do not assess the right violated at a high level of

> generality, but instead, we must determine whether the right [is] 'clearly established' in a more particularized . . . sense." *Myers v. Potter*, 422 F.3d 347, 356 (6th Cir. 2005) (quoting *Anderson v. Creighton*, 483 U.S. 635, 639-640; 107 S.Ct. 3034; 97 L.Ed.2d 523 (1987))(Petition, p. 21a).

Saucier directs that the inquiry "be undertaken in light of the specific context of the case, not as a broad general proposition." *Saucier*, 533 U.S. at 201. The circuit court decision discussed *Brosseau v Haugen*, 543 U.S. 194, 125 S.Ct. 596, 160 L.Ed.2d 583 (2004), and the scope of the right evaluated by this Court; cases addressing the shooting of a fleeing disturbed felon, set on avoiding capture through vehicular flight, when persons in the immediate area are at risk from that flight. *Id.* at 200. The analysis was not based on the general right not to be subjected to excessive force, but a more particularized right. Similarly, the right at issue here is not the general right to medical care set forth in *Estelle*, but the right to have a screening for suicidal tendencies conducted by a medical professional. Based on the proper analysis of a qualified immunity claim being whether the right was clearly established in a more particularized sense, the circuit court decision upholding qualified immunity does not conflict with the general legal right set forth in *Estelle*.

The third case cited by Petitioner as being in conflict with the circuit court decision is *Farmer v. Brennan*, 511 U.S. 825, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994). Petitioner's reliance on *Farmer* to support its Petition for Certiorari is also misplaced in light of Petitioner's acknowledgment that the grant of qualified immunity by the circuit court was based on the finding that the right at issue was not clearly established. *Farmer* is not cited for a

discussion of qualified immunity or for the definition of what constitutes a clearly established right. Instead, Petitioner sets forth the Court's analysis regarding the showing necessary to satisfy the subjective prong of deliberate indifference under the Eighth Amendment. The circuit court utilized the standards set forth in *Farmer* and determined a question of fact existed regarding whether Rice demonstrated deliberate indifference. The circuit court applied the exact standard from *Farmer* cited by Petitioner, therefore, Petitioner has not demonstrated that the circuit court opinion is in conflict with *Farmer*. More importantly, the required analysis from *Farmer* relied on by Petitioner does not address the issue Petitioner seeks to address in its Petition, whether the right at issue was clearly established in November 2002.

III. The Decision Below Does Not Conflict With Decisions Of Other Circuits.

Petitioner's entire discussion of cases from other circuits is based on a factual premise that does not exist in this case, that the inmate demonstrated a strong likelihood that he would commit suicide at the time he was screened for single cell housing. Petitioner argues that this is not a case involving screening for suicidal tendencies because Perez had previously been identified as potentially suicidal. This position is based on the assumption that once an inmate is found to have suicidal tendencies he or she will **always** have suicidal tendencies. Petitioner cannot avoid the fact that this case involves Respondent Rice screening Perez for suicidal tendencies on November 18, 2002, prior to clearing him for housing in a single cell. Dr. Hemachandra's last evaluation prior to November 18, 2002, found that Perez was not suicidal, therefore, the consultation on November 18, 2002, was made to assess whether or not Perez was suicidal at that

time. Respondent Rice acknowledged the Oakland County Jail policy that suicidal inmates are house in multiple person cells but stated that the policy did not apply to Perez because he was not suicidal at the time he was cleared for a single cell. The question in this case is whether Respondent Rice could conduct the assessment on November 18, 2002, and clear Perez for single cell housing or if she should have consulted with a medical professional to perform an assessment prior to clearing Perez for a single cell. Petitioner has never identified any case to support a claim that the right to have a screening performed by a medical professional was clearly established in November 2002.

The Sixth Circuit has held that the relevant inquiry is whether the evidence establishes a "strong likelihood" that the prisoner would attempt to take his own life. *Barber v. City of Salem*, 953 F.2d 232, 239-240 (6th Cir. 1992). No finding of a "strong likelihood" of suicide is possible in this matter because both Dr. Hemachandra and Respondent Rice indicated that Perez was not suicidal in November of 2002 prior to being placed in a single person cell. The standard is not some evidence but a "strong likelihood" and the facts of this case cannot support that standard.

Knowledge that an individual is mentally ill does not indicate a "strong likelihood," or any likelihood, of suicide. Respondent's awareness of Perez's mental illness does not equate with knowledge of existing suicidal tendencies. Dr. Hemachandra testified that the fact a person had attempted suicide in the past does not make him or her suicidal. Perez was seen by Respondent Rice four times and assessed by Dr. Hemachandra twice between October 25, 2002 and November 18, 2002 and at no time did either individual determine that Perez was suicidal.

Petitioner's reliance on cases holding that a jail employee can be deliberately indifferent to an inmate who demonstrates a strong likelihood of suicide does not support granting certiorari in this case. The circuit court's analysis utilized this standard and concluded that Respondent Rice was entitled to qualified immunity. This conclusion was based on the fact that the decision to clear Perez for single cell housing involved screening him to determine if he was suicidal and prior case law that there was no constitutional right to be correctly screened for suicidal tendencies. *Danese*, *supra*.

The distinction Petitioner fails to address in this case is that the decision by Respondent Rice on November 18, 2002 to place Perez in a single cell involved screening Perez for suicidal tendencies to determine if a "strong likelihood" of suicide existed. Petitioner discusses Perez's condition assuming suicidal tendencies existed as of November 18, 2002. The evidence does not support this assumption. The question presented in this case is whether a caseworker trained in suicide prevention can make an assessment regarding the likelihood of an inmate's suicide or if she should consult with a medical professional to make the assessment.

No case law exists that would alert Respondent Rice that she had to consult a medical professional to make the assessment regarding Perez. In fact, just the opposite is true. As set forth above, Sixth Circuit case law as of November 2002 held that inmates have no general right to be correctly screened for suicidal tendencies. *Danese v. Asman*, 875 F.2d 1239, 1244 (6th Cir. 1989). Case law also established that the generalized right of a prisoner to be free from deliberate indifference cannot support a finding that there was a clearly

established right to be protected from committing suicide. *Rich v. City of Mayfield Heights*, 955 F.2d 1092, 1096-1097 (6th Cir. 1992). In light of the foregoing holdings in the Sixth Circuit, a reasonable caseworker in Respondent Rice's position would not believe screening Perez for suicidal tendencies prior to clearing him for single cell housing was unlawful or would violate Perez's constitutional rights.

In addition to case law failing to alert Respondent Rice that conducting an assessment of Perez's suicidal tendencies without consulting a medical professional violated his constitutional rights, common practice in county jails also would fail to alert her that her assessment without consultation violated Perez's constitutional rights. Petitioner's own expert, Dr. Houston, agreed that the vast majority of county jails have individuals who are trained in suicide identification and prevention who are not psychiatrists make determinations whether or not somebody is potentially suicidal on a daily basis. Respondent Rice was trained in suicide identification and prevention and her conduct in assessing Perez's suicidal tendencies prior to placement in a single cell conforms with the practice utilized in the vast majority of county jails.

Given the lack of prior cases addressing the issue presented in this case and the widespread practice of similarly situated individuals making decisions similar to those made by Respondent Rice, Respondent Rice's housing decision was objectively reasonable and there is no reason for Respondent Rice to believe her actions violated clearly established federal law. Accordingly, she is entitled to qualified immunity.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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